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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,821	09/03/2003	Nathan Lee Gray	1171/41357/134	4123

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EXAMINER

HOOK, JAMES F

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 12/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/653,821	Applicant(s) GRAY, NATHAN LEE	
	Examiner James F. Hook	Art Unit 3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/8/03; 12/15/03</u> | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Priority

Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5-9, 14, and 18-20 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Dobritz.

Claims 1-3 and 5-8 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Norlien.

Claims 1-3, 5-8, 21, 22, and 26 are rejected under 35 U.S.C. 102(b) as being clearly anticipated by Coleman.

Claims 1, 5, 7, 14, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Darling. The patent to Darling discloses the recited limb for a breathing circuit comprising a very thin walled conduit as seen in figure 1, a first connector 42, a second connector 44, an elongate reinforcing member 24 lying freely within the thin walled conduit along a non torturous path as seen in figure 1, from one end of the conduit to the other end and connected with the first and second connectors, the reinforcing member is solid and substantially circular in cross section and two ends, the

reinforcing member contains a resistance heating element 20, cords 22 are also provided which are non-elastic within the reinforcing member which would make it resilient and not plastically deform, and the method of providing such is also set forth.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 4, and 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dryden in view of Hughes. The patent to Dryden discloses the recited limb for a breathing circuit comprising a very thin walled conduit as seen in figure 4, a first connector 32, a second connector 13, an elongate reinforcing member 31 lying freely within the thin walled conduit along a slightly torturous path as seen in figure 4 where the reinforcing member is hollow which passes through the two connectors in a blind manner, the member is small and too small for gas delivery to the patient but large enough to be used as a feedback conduit, from one end of the conduit to the other end and connected with the first and second connectors, where the connectors are provided with bumps which are a rib for engagement with a helical rib of the breathing conduit, a shoulder formed by the rib. The patent to Dryden discloses all of the recited structure with the exception of having the reinforcing element non-torturous and the connectors having helical protrusions and recess for a securing collar. It is considered old and well known in the art to provide a recess for a securing collar on a connector and such would

be an obvious choice of mechanical expedients over a connector not provided with one, where such would prevent failure. The patent to Hughes discloses that it is old and well known in the art to form hollow reinforcement member 18 to be non-torturous when provided in a thin walled conduit 12 provided with a helical rib. It would have been obvious to form the ribs on the connectors of helical ribs to allow for a helically corrugated pipe to connect thereto and to form the tube in a non-torturous manner as suggested by Hughes as such is an alternate embodiment for hollow reinforcement elements in thin walled tubes and such would allow for a simpler construction thereby saving money using less materials and to allow for faster connection of the ends to the hose saving on manufacturing costs.

Claims 2, 8, 15 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darling. The patent to Darling discloses all of the recited structure with the exception of various dimensional and stiffness values for the elements, however, such is considered merely a choice of mechanical expedients to use routine experimentation to arrive at optimum values as such only requires routine skill in the art to optimize values using routine experimentation and choices of mechanical expedients.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Darling in view of Dickenson. The patent to Darling disclose all of the recited structure with the exception of utilizing a positive temperature coefficient heating element. The patent to Dickenson discloses that it is old and well known in the art to provide hoses with heating elements including resistance type, and positive temperature coefficient heating

elements as such are equivalent types of heaters used in hoses. It would have been obvious to one skilled in the art to substitute a positive temperature coefficient heating element for the resistance heating element of Darling as suggested by Dickenson as such are taught to be equivalent types of heaters for hoses and such would provide different benefits to a standard resistance heating element thereby making the hose more useful and thereby save money.

Claims 17, 18, and 20-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Darling in view of Moseley. The patent to Darling discloses all of the recited structure with the exception of providing a cover layer over the spiral reinforcement that is made of a braided sheath of PET fibers. The patent to Moseley discloses that it is old and well known to form corrugated conduits of layers over spiral reinforcing wires where the layers can be formed of woven or braided PET yarn. It would have been obvious to one skilled in the art to provide an outer sheath formed of braided PET fibers as suggested by Moseley where such is an alternative material used over spiral reinforced conduits to protect them from damage and thereby reduce replacement costs and save money.

Conclusion

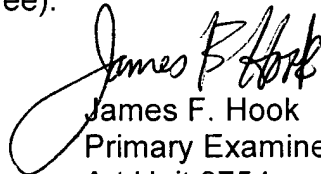
The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The patents to Smith (549, 784, and 802), Huber, Scott, Clawson and Rosenkoetter disclosing state of the art reinforced hoses.

Art Unit: 3754

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James F. Hook whose telephone number is (571) 272-4903. The examiner can normally be reached on Monday to Wednesday, work at home Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (571) 272-4906. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


James F. Hook
Primary Examiner
Art Unit 3754

JFH